

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

BLAZE HICKS

§

VS.

§

CIVIL ACTION NO. 9:19-CV-212

BRYAN SEALES, ET AL.

§

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Blaze Hicks, a prisoner previously confined at the Tyler County Jail, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Brad Seales, Kerry Perry, and Donald Calhoon.

The court referred this matter to the Honorable Christine L. Stetson, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the claims against Defendant Seales without prejudice to Plaintiff's ability to file a lawsuit raising those claims if Plaintiff's conviction is overturned or declared invalid. The magistrate judge recommends granting Defendants' Motion for Summary Judgment with respect to the medical claims against Defendant Calhoon and denying the Motion with respect to the excessive force claims against Defendant Perry.

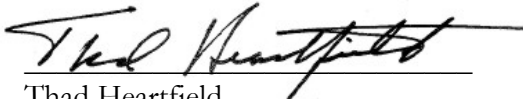
The court has received and considered the Reports and Recommendations of United States Magistrate Judge filed pursuant to such order, along with the record and the pleadings. Defendant Kerry and Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit.

ORDER

Accordingly, Defendant Perry's objections (doc. #124) and Plaintiff's objections (doc. #126 and doc. #127) are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge (doc. #123) is **ADOPTED**. Defendants' Motion for Summary Judgment (doc. #94) is **GRANTED** to the extent that the claims against Defendant Seales are **DISMISSED** without prejudice to Plaintiff's ability to pursue those claims if his conviction is overturned or declared invalid, and the claims against defendant Calhoon are **DISMISSED**. Defendants Seales and Calhoon are **DISMISSED** from this action. The Motion for Summary Judgment is **DENIED** with respect to the claims against Defendant Perry.

SIGNED this the 9 day of **November, 2022**.


Thad Heartfield
United States District Judge